

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

CARPENTERS HEALTH AND SECURITY
TRUST OF WESTERN WASHINGTON;
CARPENTERS RETIREMENT TRUST OF
WESTERN WASHINGTON; CARPENTERS-
EMPLOYERS VACATION TRUST OF
WESTERN WASHINGTON; and
CARPENTERS-EMPLOYERS
APPRENTICESHIP AND TRAINING TRUST
OF WESTERN WASHINGTON,

Plaintiffs,

v.

AEI WILLIAMS GROUP, CO., a Washington
corporation,

Defendant.

Case No. 3:19-cv-00688

COMPLAINT FOR MONETARY
DAMAGES

I. PARTIES

1.1 Plaintiff Carpenters Health and Security Trust of Western Washington (“Carpenters Health Trust”) is a Taft-Hartley trust fund established to provide and maintain hospital, medical, dental, vision, disability or death benefits and any other similar benefits, or any combination thereof as the Trustees may determine in their discretion for the benefit of the Employees and their beneficiaries. The Carpenters Health Trust maintains its principal office in Seattle, King County, Washington.

COMPLAINT FOR MONETARY DAMAGES – 1
Case No. 3:19-cv-00688

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1 1.2 Plaintiff Carpenters Retirement Trust of Western Washington (“Carpenters
2 Retirement Trust”) is a Taft-Hartley trust fund created to provide retirement and associated
3 death benefits for employees and their beneficiaries. The Carpenters Retirement Trust
4 maintains its principal office in Seattle, King County, Washington.

5 1.3 Plaintiff Carpenters-Employers Vacation Trust of Western Washington
6 (“Carpenters Vacation Trust”) is a Taft-Hartley trust fund created to provide vacation
7 benefits for employees. The Carpenters Vacation Trust maintains its principal office in
8 Seattle, King County, Washington.

9 1.4 Plaintiff Carpenters-Employers Apprenticeship and Training Trust Fund of
10 Western Washington (“Carpenters Apprenticeship Trust”) is a Taft-Hartley trust fund
11 created to defray, in whole or in part, costs of apprenticeship or other training programs for
12 the education of apprentices and journeymen carpenters. The Carpenters Apprenticeship
13 Trust maintains its principal office in Seattle, King County, Washington.

14 1.5 The Plaintiffs are commonly referred to collectively as the Carpenters Trusts
15 of Western Washington (or the “Carpenters Trusts”).

16 1.6 Defendant AEI Williams Group, Co. (“AEI Williams”) is a Washington
17 corporation with its principal place of business in Covington, King County, Washington.
18 AEI Williams’ owner, Elmore W. Williams, III, is the company’s registered agent. Upon
19 information and belief, AEI Williams conducts business in the State of Washington and this
20 district.
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II. JURISDICTION AND VENUE

2.1 This Court has exclusive jurisdiction over the Carpenters Trusts' claims pursuant to §502(e)(1) of the Employee Retirement Income Security Act of 1974 ("ERISA"), codified at 29 U.S.C. §1132(e)(1).

2.2 Venue in this Court is proper pursuant to §502(e)(2) ERISA, codified at 29 U.S.C. §1132(e)(2), and pursuant to agreement between the parties.

III. FACTS

3.1 On or about February 19, 2018, Elmore Williams, identifying himself as "FOP" of "AEI Williams Group Co." executed a Project Agreement with the Pacific Northwest Regional Council of Carpenters (the "Union") for work on the Wilson Residence Closet Addition project, in Renton, King County, Washington. The Project Agreement incorporates by reference the terms and conditions of the *2015 – 2018 Agreement between Associated General Contractors of Washington and Carpenters, Piledrivers, and Millwrights of the Pacific Northwest Regional Council of Carpenters affiliate of the United Brotherhood of Carpenters and Joiners of America*, effective June 1, 2015 (the "Master Labor Agreement"):

1. DESIGNATED LABOR AGREEMENT: The employer adopts and agrees to abide by the following Labor Agreement:

☒ Western & Central WA Master Labor Agreement Rep by:
AGC of Western WA Effective: 6/1/15 to 5/31/18.

3.2 By signing the Project Agreement, AEI Williams agreed to make fringe benefit contributions to the Carpenters Trusts and be bound by the terms and conditions of their respective trust agreements:

6. TRUST FUND OBLIGATIONS: The undersigned Employer hereby becomes a party to the applicable Trust Agreements for the trust funds or their successors identified in the designated Labor Agreement. The Employer agrees to be bound by the written provisions and procedures of said Trust Agreements, and any present or future amendments, and to any successor Trust Agreements. Employer accepts as its lawful representatives, the employer trustees who are now or who may hereafter serve on the Board of Trustees.

3.3 Prompt payment of wages and fringe benefit contributions is an essential term of the Project Agreement.

3.4 The Carpenters Trusts are beneficiaries under the terms of the Project Agreement and the Master Labor Agreement.

3.5 By executing the Project Agreements, as discussed above, AEI Williams agreed to the terms of the (i) Carpenters Health & Security Trust of Western Washington; (ii) Carpenters Retirement Trust of Western Washington; (iii) Carpenters-Employers Vacation Trust of Western Washington; and (iv) Carpenters-Employers Apprenticeship and Training Trust of Western Washington.

3.6 AEI Williams' obligations under the Carpenters Health Trust are set forth in Article II, Sections 8 – 13, and Article IV, Section 17 of the *Revised Trust Agreement of the Carpenters Health and Security Trust of Western Washington*, dated January 1, 1998, and as amended. Under the Carpenters Health Trust, AEI Williams agreed to, among other things:

- Submit its reports on or before the 15th day of the calendar month following the month in which the contributions are payable, even if the company had no employees for that period of time;
- Comply with a request to submit any information, data, report or other documents reasonably relevant to and suitable for purposes of administration of the trust, as requested by the trust funds;
- Payment of liquidated damages of twelve percent (12%) on all delinquent contributions;

- Payment of interest of not less than seven percent (7%), nor more than eighteen percent (18%); and
- Payment of the trust fund's attorney fees, costs of collection, and auditor's fees.

3.7 AEI Williams' obligations under the Carpenters Retirement Trust are set forth in Article II, Sections 8 – 13, and Article IV, Section 17 of the *Revised Trust Agreement of the Carpenters Retirement Trust of Western Washington*, dated January 1, 1998, and as amended. Under the Carpenters Retirement Trust, AEI Williams agreed to, among other things:

- Submit its reports on or before the due date specified in the trust agreement or as set by the trustees, even if the company had no employees for that period of time;
- Comply with a request to submit any information, data, report or other documents reasonably relevant to and suitable for purposes of administration of the trust, as requested by the trust funds;
- Payment of liquidated damages of twelve percent (12%) on all delinquent contributions;
- Payment of interest of not less than seven percent (7%), nor more than eighteen percent (18%); and
- Payment of the trust fund's attorney fees, costs of collection, and auditor's fees.

3.8 AEI Williams' obligations under the Carpenters Vacation Trust are set forth in Article II, Sections 8 – 13, and Article IV, Section 17 of the *Revised Trust Agreement of Carpenters-Employers Vacation Trust of Western Washington*, dated January 1, 1998, and as amended. Under the Carpenters Vacation Trust, AEI Williams agreed to, among other things:

- Submit its reports on or before the due date specified in the trust agreement or as set by the trustees, even if the company had no employees for that period of time;

- 1 ▪ Comply with a request to submit any information, data, report or other
- 2 documents reasonably relevant to and suitable for purposes of
- 3 administration of the trust, as requested by the trust funds;
- 4 ▪ Payment of liquidated damages of twelve percent (12%) on all
- 5 delinquent contributions;
- 6 ▪ Payment of interest of not less than seven percent (7%), nor more than
- 7 eighteen percent (18%); and
- 8 ▪ Payment of the trust fund's attorney fees, costs of collection, and
- 9 auditor's fees.

10 3.9 AEI Williams' obligations under the Carpenters Apprenticeship Trust are set
 11 forth in Article II, Sections 8 – 13, and Article IV, Section 17 of the *Revised Trust*
 12 *Agreement of Carpenters-Employers Apprenticeship and Training Trust Fund of Western*
 13 *Washington*, dated January 1, 1998, and as amended. Under the Carpenters Apprenticeship
 14 Trust, AEI Williams agreed to, among other things:

- 15 ▪ Submit its reports on or before the due date specified in the trust
- 16 agreement or as set by the trustees, even if the company had no
- 17 employees for that period of time;
- 18 ▪ Comply with a request to submit any information, data, report or other
- 19 documents reasonably relevant to and suitable for purposes of
- 20 administration of the trust, as requested by the trust funds;
- 21 ▪ Payment of liquidated damages of twelve percent (12%) on all
- 22 delinquent contributions;
- 23 ▪ Payment of interest of not less than seven percent (7%), nor more than
- eighteen percent (18%); and
- Payment of the trust fund's attorney fees, costs of collection, and
- auditor's fees.

 3.10 Upon information and belief, following execution of the Project Agreement,
 AEI Williams used employees to perform work on the Wilson Residence Closet Addition

1 project, subject to the Master Labor Agreement. AEI Williams also began its monthly
2 reporting and payment of fringe benefit contributions to the Carpenters Trusts.

3 3.11 In 2018, AEI Williams was selected for a routine audit of the company's
4 payroll and related business records in order to determine whether it had complied with its
5 obligations to properly report and pay fringe benefit contributions to the Carpenters Trusts.
6 The audit covered the period November 1, 2017 through September 30, 2018 for all projects
7 to which AEI Williams was signatory.

8 3.12 On December 17, 2018, the Carpenters Trusts' auditor released its *Report on*
9 *Applying Agreed-Upon Procedures Report* (the "Audit Report"). The auditor concluded that
10 AEI Williams owed the Carpenters Trusts \$2,346.95 in underreported/unpaid fringe benefit
11 contributions on the Wilson Residence Closet Addition project, plus additional amounts for
12 liquidated damages, and interest due to non-payment.

13 3.13 On January 5, 2019, the Carpenters Trusts' administration office provided
14 AEI Williams with a copy of the Audit Report and gave the company thirty days in which to
15 review and respond to the report, and object to the Audit Report's conclusions if AEI
16 Williams wished. AEI Williams did not respond.

17 3.14 This matter was then referred to counsel for collection. On February 20,
18 2019, AEI Williams was provided with another copy of the Audit Report and given two
19 weeks in which to respond. AEI Williams did not respond.

20 3.15 On April 8, 2019, the Carpenters Trusts sent a written final demand to AEI
21 Williams seeking payment for the amounts listed in the Audit Report. AEI Williams did not
22 respond.
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3.16 As of the date of this complaint, AEI Williams owes the Carpenters Trusts \$2,820.64 as reflected in the Audit Report, consisting of \$2,346.95 in fringe benefit contributions, \$281.63 in liquidated damages, \$192.06 in interest, plus additional amounts for post-audit interest, attorney fees, and costs of collection.

IV. CAUSES OF ACTION

First Cause of Action (Breach of Labor Agreement/Trust Agreement)

4.1 The Carpenters Trusts reallege each and every allegation contained in ¶¶3.1 – 3.16, above.

4.2 AEI Williams' failure to properly report and pay fringe benefit contributions constitutes breaches of the terms of the Project Agreement and the Master Labor Agreement between the Union and AEI Williams, to which the Carpenters Trusts are beneficiaries. AEI Williams' failure to fully pay the fringe benefit contributions owed to the Carpenters Trusts also constitutes breaches of the Trust Agreements, the terms of which AEI Williams agreed to when it signed the Project Agreement.

4.3 As a result of AEI Williams' breach, the Carpenters Trusts have been damaged in an amount to be proven at trial, but not less than \$2,820.64, plus additional prejudgment interest, attorney fees, and costs of collection.

Second Cause of Action (Violation of ERISA)

4.4 The Carpenters Trusts reallege each and every allegation contained in ¶¶3.1 – 3.16, above.

4.5 AEI Williams' failure to report and pay fringe benefit contributions constitutes a violation of §503(a)(3), §515 ERISA, codified at 29 U.S.C. §1132(a)(3), §1145.

4.6 As a result of AEI Williams' violation, the Carpenters Trusts have been damaged in an amount to be proven at trial, but not less than \$2,820.64, plus additional prejudgment interest, attorney fees, and costs of collection.

V. REQUESTED RELIEF

The Carpenters Trusts respectfully request the Court grant the following relief:

- A. Judgment in favor of the Carpenters Trusts against AEI Williams, in an amount to be determined at trial, but not less than \$2,346.95, representing past-due and delinquent fringe benefit contributions owed by defendant pursuant to the terms of the labor and trust agreements to which AEI Williams is a party, and as set forth in the Audit Report;
- B. Judgment in favor of the Carpenters Trusts against AEI Williams, in an amount to be determined at trial, but not less than \$281.63, representing liquidated damages owed by defendant pursuant to the terms of the labor and trust agreements to which AEI Williams is a party, and as set forth in the Audit Report;
- C. Judgment in favor of the Carpenters Trusts against AEI Williams, in an amount to be determined at trial, but not less than \$192.06, representing prejudgment interest owed by defendant pursuant to the terms of the labor and trust agreements to which AEI Williams is a party, and as set forth in the Audit Report;
- D. Judgment in favor of the Carpenters Trusts against AEI Williams, in an amount to be determined at trial, representing additional accrued prejudgment interest owed by defendant pursuant to the terms of the labor and trust agreements to which AEI Williams is a party;
- E. An award of attorney fees of not less than \$5,000.00, plus costs of collection, as authorized by the labor and trust agreements to which AEI Williams is a party, and as authorized under ERISA;
- F. An award of post-judgment interest at the 12% rate specified by the applicable trust agreement, and as authorized under ERISA; and

1 G. Any other such relief under federal law or as is just and equitable.

2 Dated: May 8, 2019.

3 s/ Jeffrey G. Maxwell

4 Jeffrey G. Maxwell, WSBA #33503

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